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#11
7/23/03
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July 11, 2003

VIA FACSIMILE AND FIRST CLASS MAIL

Commissioner for Patents
United States Patent & Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

RECEIVED
JUL 17 2003
Technology Center 2100

Re: **Dynaptics Corporation**
Case No. 01-55690 MM, Chapter 7

US Patent Application #09/361,678
Filed: July 27, 1999
Title: Method and System for Internet Personalization
Inventor: Oliver, et al.

Dear Sir/Madam:

This office is in receipt of your Notice of Abandonment concerning Patent Application No. 09/361,6678. I write because the reasons given by the Primary Examiner, Mr. Srirama Channavajjala, for giving notice of the abandonment are erroneous.

When Mr. Channavajjala called me on Monday, July 7, 2003, we discussed the following circumstances at length:

- Dynaptics Corp. ("Debtor"), the entity seeking the patent, filed a voluntary petition under Chapter 7 of the United States Bankruptcy Code on November 9, 2001.
- I represent Suzanne L. Decker, the Chapter 7 trustee appointed in the Debtor's bankruptcy case.
- Fernandez & Associates, the attorneys who represented Dynaptics Corp. in connection with the patent application, did not at any time represent the Trustee or the bankruptcy estate in connection with the pending application.

- During the course of the bankruptcy case, the Trustee sold all rights to the pending patent to an entity known as Skychange, Inc.
- The Patent and Trademark Office's communication which required a response was apparently directed to Fernandez & Associates.
- To the best of my knowledge (based upon the fact that Fernandez & Assoc. had no professional duties to either the Trustee or Skychange), Fernandez & Associates did not notify Skychange of any communication from the PTO which required a response.
- I would endeavor to contact Skychange immediately (which I did, see enclosed letter) advising it that it must act immediately to notify the PTO of the assignment of the rights to the pending patent application, and ascertain what the PTO required in order to avoid abandonment of the pending application.

In the course of this conversation, Mr. Channavajjala advised me that Skychange should send written confirmation to the PTO of the assignment and that it would be given a reasonable opportunity to remedy any defects which put it at risk of having the patent application abandoned.

Somehow, Mr. Channavajjala took from our conversation that Fernandez & Associates remained involved in the pending application, which is not true. I did not advise Mr. Channavajjala that the pending application was "being transferred to Fernandez & Associates." To the contrary, I told him that it had been transferred to Skychange, and that Fernandez did not represent Skychange. Apparently, when he later contacted Fernandez & Associates, it stated that it no longer represented the holder of the pending application (which is true, as we had discussed). I fear that when Fernandez & Associates stated to Mr. Channavajjala that it was "not dealing with the application," he interpreted that statement to mean that the actual holder had decided not to continue prosecuting the application. Yet as far as I know, Skychange remains interested in maintaining the application.

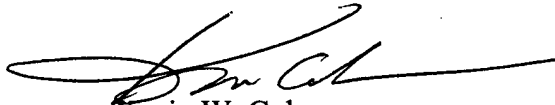
While the trustee of Dynaptics Corp. no longer holds an interest in the pending application, I feel compelled to write to advise the PTO that from my perspective, its decision to deem the pending application abandoned may have been based upon erroneous facts.

I respectfully submit that it may be appropriate for the PTO to consider the foregoing circumstances on its decision to deem the application abandoned, and give Skychange an opportunity to cure any defects in the pending application. Skychange's current address is set forth below.

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Thank you for your time and consideration in this matter.

Very truly yours,



Kevin W. Coleman

KWC/jat

cc: Srirama Channavajjala
Jonathan Oliver
Sara Krueger, President
Skychange, Inc. (via fax)
145 W. 58th Street, Suite 14M
New York, NY 10019



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/361,678	07/27/1999	JONATHAN OLIVER	358.02	5818

7590

07/08/2003

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EXAMINER

CHANNAVAJJALA, SRIRAMA T

ART UNIT PAPER NUMBER

2177

DATE MAILED: 07/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

RECEIVED

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Notice of Abandonment

Application No.

09/361,678

Examiner

Srirama Channavajjala

Applicant(s)

OLIVER ET AL.

Art Unit


2177

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on _____.
 - (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
 - (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - (d) ☒ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) ☐ The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.
The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.
 - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☒ The reason(s) below:

On 7/7/2003 Talked to Kevin Coleman at 415/995-8475 and Mr. Kevin told me that this case is being transferred to Fernandez & Associates. I also called Fernandez & Associates at 650/325-4999 and they are not dealing with this application any more and further information is not available..


Srirama Channavajjala
Primary Examiner
Art Unit: 2177

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.